

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE  
MIDDLE DISTRICT OF ALABAMA, NORTHERN DIVISION

UNITED STATES OF AMERICA        )  
                                      )        CRIMINAL ACTION NO.  
v.                                )  
                                      )        2:18cr243-MHT  
                                      )        (WO)  
HOWARD JAMES SMITH                )

OPINION

Amendment 821 to the 2023 edition of the Sentencing Guidelines revised the guidelines applicable to the calculation of criminal history with respect to offenders who earned status points based on the commission of an offense while serving a criminal-justice sentence, and to the calculation of offense level for offenders who had zero criminal-history points at the time of sentencing. Following the United States Sentencing Commission's decision to give retroactive effect to these changes, this court established an Amendment 821 Screening Panel, consisting of representatives of the court, the office of the United States Attorney, the United States Probation Office, the Federal Defender's office, and

the Clerk's office, to determine whether a defendant might be eligible for a reduction of sentence.

Defendant Howard J. Smith filed a motion for a sentence reduction (Doc. 806) based on Amendment 821's changes to the Sentencing Guidelines. The court referred the motion to the Panel.

Upon consideration of the recommendation of the Amendment 821 Screening Panel, entered February 13, 2024, and after an independent and de novo review of the record, the court adopts the recommendation of the Panel and finds that defendant Smith is not eligible to receive a reduction in sentence under Amendment 821 for the following reasons. Defendant Smith was not a zero-point offender and did not receive status points at his original sentencing. A reduction in a term of imprisonment under 18 U.S.C. § 3582(c)(2) is not authorized where none of the amendments apply to the defendant. See U.S. Sentencing Guidelines §1B1.10(a)(2)(A).

An appropriate order denying defendant Smith's motion will be entered.

DONE, this the 13th day of February, 2024.

/s/ Myron H. Thompson  
UNITED STATES DISTRICT JUDGE